

ADMINISTRATIVE PANEL DECISION

Elsevier BV. v. Domains Meena

Case No. D2023-0541

1. The Parties

The Complainant is Elsevier BV., Netherlands, represented by Nelson Mullins Riley & Scarborough, L.L.P., United States of America (“United States”).

The Respondent is Domains Meena, India.

2. The Domain Name and Registrar

The disputed domain name <iscopus.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2023. On February 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 8, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 9, 2023.

The Center verified that the Complaint, together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 2, 2023.

The Center appointed Knud Wallberg as the sole panelist in this matter on March 14, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a global information analytics business, providing information analytics solutions and digital tools in the areas of strategic research management, research and development performance, clinical decision support and professional education. It employs 8,700 people and serves customers globally. More than 25,000 academic and governmental institutions around the world use the Complainant's products. Scopus is the Complainant's abstract and citation database, that was launched by the Complainant in 2004. The Scopus database includes more than: 84 million records, 27,100 active serial titles, 249,000 books, 1.8 billion cited references dating back to 1970, 17.6 million author profiles, 94,800 affiliation profiles, and 7,000 publishers.

The Complainant is the owner a number of trademark registrations for SCOPUS, including United States trademark registration No. 2952563, registered on May 17, 2005 for services in International Class 42 and Indian trademark registration No. 4848784, registered on February 4, 2021 for services in International Class 42.

The Complainant's official website for the Scopus database is located at "www.scopus.com."

The disputed domain name was registered on June 16, 2021. It resolves to a website that offers services similar and related to the Complainant's SCOPUS journal indexing services.

5. Parties' Contentions

A. Complainant

The Complainant's contentions can be summarized as follows:

The Complainant contends that the disputed domain name is confusingly similar to the trademark SCOPUS, since the disputed domain name is comprised solely of the SCOPUS mark with the addition of the descriptive prefix "i".

The Complainant further contends that the Respondent has no prior rights or legitimate interest in the disputed domain name. The Complainant has not authorized the Respondent to use the SCOPUS mark nor does the Respondent hold a license to use the SCOPUS mark. Furthermore, the Respondent is not commonly known by the SCOPUS mark.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The Respondent registered the disputed domain name with actual knowledge of the Complainant and its SCOPUS mark, and the disputed domain name is used for an active website the content of which consists of products and services related to the Complainant's SCOPUS database and indexing products and services. Such use of the disputed domain name is unequivocal evidence of the Respondent's registration and use of the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name have been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar (in the sense of the Policy) to the Complainant's registered trademark SCOPUS, since the disputed domain name contains this mark in its entirety. The addition of the letter "i" as prefix does not prevent confusing similarity. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

It is obvious from the Complaint, that the Complainant has not licensed or otherwise permitted the Respondent to use the trademark SCOPUS.

Further, given the circumstances of this case, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not rebutted this. Furthermore, the way the Respondent uses the confusingly similar disputed domain name for a website that clearly impersonates the Complainant, supports a finding that the Respondent lacks rights or legitimate interests in the disputed domain name.

Consequently, the Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are also fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of a domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances, which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that

complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

Given the circumstances of the case, including the well-known status of the Complainant's trademark SCOPUS and the way that the disputed domain name has been and is still used, it is obvious to the Panel in the current circumstances that the Respondent registered the disputed domain name in bad faith.

The disputed domain name is used for a website, which clearly gives the Internet users the impression that the website is a website of the Complainant or a website that is somehow connected to the Complainant. This is still the case, although the Respondent changed the use of the name on the website from "iSCOPUS" to "iSCOPE", after having received a C&D letter from the Complainant's attorney. The Panel therefore finds that there can be no doubt that the disputed domain name is used in bad faith to intentionally attempt "to attract, for commercial gain, Internet users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website".

Noting that the disputed domain name incorporates the Complainant's well-known trademark SCOPUS; that the Respondent has not replied to the Complainant's contentions; and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <iscopus.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: April 5, 2023